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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,627	06/28/2001	Bill Kitchen	23952-0037	5978
29052 7590 07/17/2007 SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309			EXAMINER GRAHAM, CLEMENT B	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/892,627

Applicant(s)

KITCHEN ET AL.

Examiner

Clement B. Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/11/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/27/07</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-33 has been cancelled and claims 34-60 has been added.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 40, 54, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, Claims 1, 40, 54, recites the words [“ particular manner” another date” another check].

However these language fails to distinctly claim Applicant's invention because the scope of the claim is unclear. Moreover the specification fails to clarify, the meaning of the limitation.

Appropriate correction is required.

**Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 34-60, are rejected under 35 U.S.C. 102(e) as being anticipated by Kight et al(Hereinafter Kight US Pub: 2004/0083167.

As per claim 43, Kight discloses a process for electronically authorizing and initiating payment, comprising:

receiving payment information including a date which pre-dates a due date of a payment by an amount of time corresponding to a time period for making payment in a particular manner (see column 11 para 0132-0153 and column 8 para 0097-0103) displaying the received payment information in the form of a check with the date displayed as a date of the check;

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receiving a user authorization to proceed with the payment; and transmitting an instruction to initiate the payment in the particular manner on the check date based on the received user authorization.( see para 0008-10015 and para 0096-0101and para 0102-0107).

As per claim 35, Kight discloses, wherein:

the particular manner of making payment is one of a first type payment mode and a second type payment mode;

if the particular manner of payment is the first type payment mode, the check date pre-dates the due date of the payment by a first amount corresponding to the time period for making the payment using the first type payment mode(see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103) and if the particular manner of payment is the second type payment mode, the check date pre-dates the due date of the payment by a second amount, different than the first amount, corresponding to the time period for making the payment using the second type payment mode. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103)

As per claim 36, Kight discloses a process according to claim 35, wherein: the first type payment is payment by hard copy check; and the second type payment is payment by an electronic fund transfer. (see para 0008-10015 and para 0096-0101and para 0102-0107 and column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 37, Kight discloses further comprising:

receiving another user authorization to proceed with the payment on a periodic basis; wherein the transmitted instruction is also an instruction to initiate the payment in the particular manner on a periodic basis after the check date based on received other user authorization. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 38, Kight further comprising: receiving payment status information; and displaying the received payment status information. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 39, Kight discloses wherein:  
the displayed payment status information includes an indication that the payment has been made. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 40, Kight discloses further comprising:  
receiving other payment information including another date which pre-dates a due date of another payment by the amount of time corresponding to the time period for making payment in the particular manner (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103)  
displaying the other payment information in the form of another check with the other date displayed as a date of the other check;  
receiving a user command to modify the displayed other check date;  
displaying the other payment information in the form of the other check with the modified other check date, based on the user command (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103) receiving another user authorization to proceed with the other payment, and transmitting another instruction to initiate the other payment in the particular manner on the modified other check date based on the received other user authorization. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 41, Kight discloses wherein the received payment information includes multiple biller identifiers, each representing a respective biller, and further comprising:

receiving a user command selecting one of the multiple biller identifiers; wherein the displayed payment information includes a name of the biller represented by the selected biller identifier as a payee on the check, the check date is a date associated with a due date of a bill of the selected biller and is displayed based upon selection of the biller, and the transmitted instruction initiates the payment to the displayed check payee.

As per claim 42, Kight discloses a further comprising: receiving bill information (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see

column 11 para 0132-0153 and column 8 para 0097-0103)

and displaying the received bill information with the received payment information on the single screen. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 43, Kight discloses further comprising:  
displaying, on the single screen, at least one of a first indicator which can be activated by a user command to access terms and conditions associated with the displayed bill information, a second indicator which can be activated by a user command to access advertisements; a third indicator which can be activated by a user command to access customer care. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 44, Kight discloses a system for generating an electronic payment authorization, comprising:  
a processor configured to receive payment information including a date which pre-dates a due date of a payment by an amount of time corresponding to a time period for making payment in a particular manner (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103)  
a display configured to display the received payment information in the form of a check with the date displayed as a date of the check;  
an input device configured to receive a user authorization to proceed with the payment;  
and wherein the processor is further configured to generate an instruction initiate the payment in the particular manner on the check date based on the received user authorization. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 45, Kight discloses wherein:  
the particular manner of making payment is one of a first type payment mode and a second type payment mode;  
if the particular manner of payment is the first type payment mode, the check date pre-dates the due date of the payment by a first amount corresponding to the time period for making the payment using the first type payment mode (see para 0008-10015 and para

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0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103) and if the particular manner of payment is the second type payment mode, the check date pre-dates the due date of the payment by a second amount, different than the first amount, corresponding to the time period for making the payment using the second type payment mode. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 46, Kight discloses wherein: the first type payment mode is payment by hard copy check; and the second type payment mode is payment by an electronic fund transfer. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 47, Kight discloses wherein:  
the input device is further configured to receive another user authorization of payment on a periodic basis;  
the processor is further configured to generate the instruction to initiate the payment in the particular manner on a periodic basis after the check date based on the received other user authorization. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103)

As per claim 48, Kight discloses wherein:  
the processor is further configured to receive payment status information; the display is further configured to display the payment status information. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 49, Kight discloses wherein:  
the again displayed information includes a cancelled check stamp as an indication that the payment status is that the payment has been made. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 50, Kight discloses wherein:  
the processor is further configured to receive other payment information including another date which pre-dates another due date of another payment by the amount of

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time corresponding to the time period for making payment in the particular manner;  
the display is further configured to display the other payment information in the form of another check with the other date displayed as a date the other check;  
the input device is further configured to receive a user command to modify the displayed other check date(see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103)  
the display is further configured to display the other payment information with the modified check date, based on the user command;  
the input device is further configured to receive another user authorization to proceed with the other payment(see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103)  
and the processor is further configured to generate another instruction to initiate the other payment in the particular manner on the modified check date based on the received other user authorization. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 51, Kight discloses wherein:

the received payment information includes multiple billet identifiers each representing a respective biller, the input device is further configured to receive a user command selecting one of the multiple biller identifiers(see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103) the displayed payment information includes a name of the biller represented by the selected biller identifier as the payee on the check; and  
the processor is further configured to generate the instruction to initiate the payment to the displayed check payee. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 52, Kight discloses wherein:

the processor is further configured to receive detailed bill information; and  
the display is further configured to display the received bill information with the received payment information on the single screen. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-



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0103).

As per claim 53, Kight discloses wherein:  
the display is further configured to display, on the single screen, at least one of a first indicator which can be activated by a user command to access terms and conditions associated with the displayed bill information, a second indicator which can be activated by a user command to access advertisements; a third indicator which can be activated by a user command to access customer care. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 54, Kight discloses a single screen display for electronically presenting bill payment information, comprising:  
a named payee; and a date which pre-dates a due date, of a payment to the selected biller named in the payee area, by an amount of time corresponding to a time period for making payment in a particular manner, wherein the named payee and the date are displayed in a check format. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 55, Kight discloses, further comprising: a listing of multiple billers; wherein the named payee represents one of the multiple billers selected from the listing. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 56, Kight discloses further comprising:  
a periodic payment information area in the check format, including selectable periodic payment periods. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 57, Kight discloses, further comprising: an indication of the status of the payment. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 58, Kight discloses wherein the indication is a cancelled check stamp. (see para 0008-10015 and para 0096-0101 and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 59, Kight discloses further comprising:  
detailed bill information. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

As per claim 60, Kight discloses, further comprising:  
at least one of a first indicator which can be activated by a user command to access terms and conditions associated with the displayed bill information, a second indicator which can be activated by a user command to access advertisements; a third indicator which can be activated by a user command to access customer care. (see para 0008-10015 and para 0096-0101and para 0102-0107 and see column 11 para 0132-0153 and column 8 para 0097-0103).

## **CONCLUSION**

### **Response to Arguments**

6. Applicant's arguments filed 4/11/07has been fully considered but they are moot in view of new grounds of rejections.

7. Applicant's claims, states " a processor configured to and further configured and a display configured to and configured to display"

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

\*\*>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,

1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In *re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In *re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

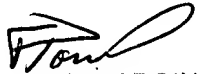
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

June 29, 2007

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
*Ac 3692*